

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by  
5 changing the heading of Article XXXI 1/2 and Sections 512-1,  
6 512-2, 512-3, 512-4, 512-5, 512-6, 512-7, 512-8, 512-9, and  
7 512-10 and by adding Sections 512-11 and 512-12 as follows:

8 (215 ILCS 5/Art. XXXI.5 heading)

9 ARTICLE XXXI 1/2.

10 PHARMACEUTICAL BENEFITS MANAGEMENT ~~THIRD PARTY PRESCRIPTION~~  
11 PROGRAMS

12 (215 ILCS 5/512-1) (from Ch. 73, par. 1065.59-1)

13 Sec. 512-1. Short Title. This Article shall be known and  
14 may be cited as the "Pharmaceutical Benefits Management  
15 Programs Law ~~Third Party Prescription Program Act~~".

16 (Source: P.A. 82-1005.)

17 (215 ILCS 5/512-2) (from Ch. 73, par. 1065.59-2)

18 Sec. 512-2. Purpose. It is hereby determined and declared  
19 that the purpose of this Article is to regulate pharmaceutical  
20 benefits management programs ~~certain practices engaged in by~~  
21 ~~third party prescription program administrators.~~

22 (Source: P.A. 82-1005.)

23 (215 ILCS 5/512-3) (from Ch. 73, par. 1065.59-3)

24 Sec. 512-3. Definitions. For the purposes of this Article,  
25 unless the context otherwise requires, the terms defined in  
26 this Article have the meanings ascribed to them herein:

27 "Director" means the Director of the Division of Insurance  
28 of the Department of Financial and Professional Regulation.

29 "Division" means the Division of Insurance of the

1 Department of Financial and Professional Regulation.

2 ~~(a) "Pharmaceutical benefits management ~~Third party~~~~  
3 ~~prescription program" or "program" means any system of~~  
4 ~~providing for the administration of or reimbursement for of~~  
5 ~~pharmaceutical services and prescription drug products offered~~  
6 ~~or operated in this State by a pharmaceutical benefits manager~~  
7 ~~under a contractual arrangement or agreement between a provider~~  
8 ~~of such services and another party who is not the consumer of~~  
9 ~~those services and products. Such programs may include, but~~  
10 ~~need not be limited to, employee benefit plans whereby a~~  
11 ~~consumer receives prescription drugs or other pharmaceutical~~  
12 ~~services and those services are paid for by an agent of the~~  
13 ~~employer or others.~~

14 ~~(b) "Pharmaceutical benefits manager ~~Third party program~~~~  
15 ~~administrator" or "PBM administrator" means any person,~~  
16 ~~partnership or corporation who issues or causes to be issued~~  
17 ~~any payment or reimbursement to a provider for services~~  
18 ~~rendered pursuant to a pharmaceutical benefits management~~  
19 ~~third party prescription program. "Pharmaceutical benefits~~  
20 ~~manager" or "PBM", ~~but~~ does not include the Director of Public~~  
21 ~~Aid or any agent authorized by the Director to reimburse a~~  
22 ~~provider of services rendered pursuant to a program of which~~  
23 ~~the Department of Public Aid is the third party.~~

24 (Source: P.A. 90-372, eff. 7-1-98.)

25 (215 ILCS 5/512-4) (from Ch. 73, par. 1065.59-4)

26 Sec. 512-4. Registration. All pharmaceutical benefits  
27 management ~~third party prescription~~ programs and PBMs  
28 ~~administrators~~ doing business in the State shall register with  
29 the Director ~~of Insurance~~. The Director may ~~shall~~ promulgate  
30 regulations establishing criteria for registration in  
31 accordance with the terms of this Article. The Director may by  
32 rule establish an annual registration fee for each  
33 pharmaceutical benefits management program ~~third party~~  
34 ~~administrator~~.

35 (Source: P.A. 82-1005.)

1 (215 ILCS 5/512-5) (from Ch. 73, par. 1065.59-5)

2 Sec. 512-5. Fiduciary and Bonding Requirements.

3 (a) A PBM ~~third party prescription program administrator~~  
4 shall (1) establish and maintain a fiduciary account, separate  
5 and apart from any and all other accounts, for the receipt and  
6 disbursement of funds for reimbursement of providers of  
7 services under the program, or (2) post, or cause to be posted,  
8 a bond of indemnity in an amount equal to not less than 10% of  
9 the total estimated annual reimbursements under the program.

10 (b) The establishment of such fiduciary accounts and bonds  
11 shall be consistent with applicable State law. If a bond of  
12 indemnity is posted, it shall be held by the Director ~~of~~  
13 ~~Insurance~~ for the benefit and indemnification of the providers  
14 of services under the pharmaceutical benefits management ~~third~~  
15 ~~party prescription~~ program.

16 (c) Any PBM ~~An administrator~~ who operates more than one  
17 pharmaceutical benefits management ~~third party prescription~~  
18 program may establish and maintain a separate fiduciary account  
19 or bond of indemnity for each such program, or may operate and  
20 maintain a consolidated fiduciary account or bond of indemnity  
21 for all such programs.

22 (d) The requirements of this Section do not apply to any  
23 pharmaceutical benefits management ~~third party prescription~~  
24 program administered by or on behalf of any insurance company,  
25 Health Maintenance Organization, Limited Health Service  
26 Organization, or Voluntary Health Services Plan Care Service  
27 ~~Plan Corporation or Pharmaceutical Service Plan Corporation~~  
28 authorized to do business in the State of Illinois.

29 (Source: P.A. 82-1005.)

30 (215 ILCS 5/512-6) (from Ch. 73, par. 1065.59-6)

31 Sec. 512-6. Notice. Notice of any change in the terms of a  
32 pharmaceutical benefits management ~~third party prescription~~  
33 program, including but not limited to drugs covered,  
34 reimbursement rates, co-payments, and dosage quantity, shall

1 be given to each enrolled pharmacy at least 30 days prior to  
2 the time it becomes effective.

3 (Source: P.A. 82-1005.)

4 (215 ILCS 5/512-7) (from Ch. 73, par. 1065.59-7)

5 Sec. 512-7. Contractual provisions.

6 (a) Any agreement or contract entered into ~~in this State~~  
7 between a PBM ~~the administrator of a program~~ and a pharmacy  
8 under a pharmaceutical benefits management program shall  
9 include a statement of the method and amount of reimbursement  
10 to the pharmacy for services rendered to persons enrolled in  
11 the program, the frequency of payment by the PBM program  
12 ~~administrator~~ to the pharmacy for those services, and a method  
13 for the adjudication of complaints and the settlement of  
14 disputes between the contracting parties.

15 (b) (1) A program shall provide an annual period of at least  
16 30 days during which any pharmacy licensed under the  
17 Pharmacy Practice Act of 1987 may elect to participate in  
18 the program under the program terms for at least one year.

19 (2) If compliance with the requirements of this  
20 subsection (b) would impair any provision of a contract  
21 between a program and any other person, and if the contract  
22 provision was in existence before January 1, 2006 ~~1990~~,  
23 then immediately after the expiration of those contract  
24 provisions the program shall comply with the requirements  
25 of this subsection (b).

26 (3) This subsection (b) does not apply if:

27 (A) the PBM program administrator is a licensed  
28 health maintenance organization, limited health  
29 service organization, or voluntary health services  
30 plan that owns or controls a pharmacy and that enters  
31 into an agreement or contract with that pharmacy in  
32 accordance with subsection (a); or

33 (B) (blank). ~~the program administrator is a~~  
34 ~~licensed health maintenance organization that is owned~~  
35 ~~or controlled by another entity that also owns or~~

1 ~~controls a pharmacy, and the administrator enters into~~  
2 ~~an agreement or contract with that pharmacy in~~  
3 ~~accordance with subsection (a).~~

4 (4) (Blank). ~~This subsection (b) shall be inoperative~~  
5 ~~after October 31, 1992.~~

6 (c) The PBM program administrator shall cause to be issued  
7 an identification card to each person enrolled in the program.  
8 The identification card shall comply with the Uniform  
9 Prescription Drug Information Card Act. ~~include:~~

10 ~~(1) the name of the individual enrolled in the program;~~  
11 ~~and~~

12 ~~(2) an expiration date if required under the~~  
13 ~~contractual arrangement or agreement between a provider of~~  
14 ~~pharmaceutical services and prescription drug products and~~  
15 ~~the third party prescription program administrator.~~

16 (Source: P.A. 86-473; 87-254.)

17 (215 ILCS 5/512-8) (from Ch. 73, par. 1065.59-8)

18 Sec. 512-8. Cancellation procedures.

19 (a) The pharmaceutical benefits manager administrator ~~of a~~  
20 ~~program~~ shall notify all pharmacies enrolled in the program of  
21 any cancellation of the coverage of benefits of any group  
22 enrolled in the program at least 30 days prior to the effective  
23 date of such cancellation. However, if the PBM administrator ~~of~~  
24 ~~a program~~ is not notified at least 45 days prior to the  
25 effective date of such cancellation, the PBM administrator  
26 shall notify all pharmacies enrolled in the program of the  
27 cancellation as soon as practicable after having received  
28 notice.

29 (b) When a program is terminated, all persons enrolled  
30 therein shall be so notified, and the employer shall make every  
31 reasonable effort to gain possession of any plan identification  
32 cards in such persons' possession.

33 (c) Any person who intentionally uses a program  
34 identification card to obtain services from a pharmacy after  
35 having received notice of the cancellation of his benefits

1 shall be guilty of a Class C misdemeanor. Persons shall be  
2 liable to the PBM ~~program administrator~~ for all monies paid by  
3 the PBM ~~program administrator~~ for any services received  
4 pursuant to such misuse ~~any improper use~~ of the identification  
5 card.

6 (Source: P.A. 82-1005.)

7 (215 ILCS 5/512-9) (from Ch. 73, par. 1065.59-9)

8 Sec. 512-9. Denial of Payment.

9 (a) No PBM ~~administrator~~ shall deny payment to any pharmacy  
10 for covered pharmaceutical services or prescription drug  
11 products rendered as a result of the misuse, fraudulent or  
12 illegal use of an identification card unless such  
13 identification card had expired, been noticeably altered, or  
14 the pharmacy was notified of the cancellation of such card. In  
15 lieu of notifying pharmacies which have a common ownership, the  
16 PBM ~~administrator~~ may notify a party designated by the pharmacy  
17 to receive such notice, in which case, notification shall not  
18 become effective until 5 calendar days after the designee  
19 receives notification.

20 (b) No PBM ~~program administrator~~ may withhold any payment  
21 to any pharmacy for covered pharmaceutical services or  
22 prescription drug products beyond the time period specified in  
23 the payment schedule provisions of the agreement, except for  
24 individual claims for payment which have been returned to the  
25 pharmacy as incomplete or illegible. Such returned claims shall  
26 be paid if resubmitted by the pharmacy to the PBM ~~program~~  
27 ~~administrator~~ with the appropriate corrections made.

28 (Source: P.A. 82-1005.)

29 (215 ILCS 5/512-10) (from Ch. 73, par. 1065.59-10)

30 Sec. 512-10. Failure to Register. Any pharmaceutical  
31 benefits management ~~third party prescription~~ program or PBM  
32 that ~~administrator which~~ operates without a certificate of  
33 registration or fails to register with the Director and pay the  
34 fee prescribed by this Article shall be construed to be an

1 unauthorized insurer as defined in Article VII of this Code and  
2 shall be subject to all penalties contained therein.

3 The provisions of this ~~the~~ Article shall apply to all new  
4 programs established on or after January 1, 2006 ~~1983~~. Programs  
5 existing on the effective date of this amendatory Act of the  
6 94th General Assembly ~~Existing programs~~ shall comply with the  
7 provisions of this Article as they existed before the effective  
8 date of this amendatory Act of the 94th General Assembly until  
9 ~~on~~ the anniversary date of the programs that occurs on or after  
10 January 1, 2006, at which time the programs shall comply with  
11 the provisions of this Article as they exist beginning on the  
12 effective date of this amendatory Act of the 94th General  
13 Assembly ~~1983~~.

14 (Source: P.A. 82-1005.)

15 (215 ILCS 5/512-11 new)

16 Sec. 512-11. Failure to Comply. In order to enforce the  
17 provisions of this Article, the Director may issue a cease and  
18 desist order or require a PBM to pay a civil penalty or both.  
19 Subject to the provisions of the Illinois Administrative  
20 Procedure Act, the Director may, pursuant to Section 403A of  
21 the Illinois Insurance Code, impose upon a pharmaceutical  
22 benefits management program an administrative fine of \$5,000  
23 for violations of this Article.

24 (215 ILCS 5/512-12 new)

25 Sec. 512-12. Rulemaking. The Director shall have the  
26 authority to adopt any rules necessary for the implementation  
27 and administration of this Article.

28 Section 99. Effective date. This Act takes effect upon  
29 becoming law.